

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

FILED
U.S. DISTRICT COURT
DISTRICT OF NEW MEXICO
2022 SEP 12 PM 4:36
CLERK-LAS CRUCES

MARIO REYNOSO,
DEFENDANT,

V

UNITED STATES OF
AMERICA,
RESPONDENT(S).

)
)
)
)
) Cause No.: 19-CR-137RB
) Appeals No.: 20-2130
)
)
)

MOTION FOR APPOINTMENT OF COUNSEL
TO ASSIST DEFENDANT WITH FILING
A WRIT OF CERTIORARI PETITION

COMES NOW, MARIO REYNOSO (hereinafter "Petitioner"), in such styled motion titled aboved, to move this court for an ORDER appointing CJA counsel pursuant to the Criminal Justice Act 18 U.S.C.S § 3006A or an ORDER compelling CJA counsel of the record to comply with his duties and this Circuit's adopted CJA Plan, by filing either a Writ of Certiorari Petition to the United States Supreme Court on Petitioner's behalf or file a Motion to Withdraw from representation of Petitioner's behalf and a Motion for Extention of time so Petitioner can file a Pro Se motion on his own behalf.

In support of this forthcoming motion, Petitioner shows this court as follows:

(1). On September 1, 2010, Petitioner was sentenced in Criminal case No. 2:19-CR-00137-RB-1, to a term of imprisonment of 280 months,

followed by 10 years of Supervised Release with special conditions; 500 hour drug programing; SPA \$100.00, in the U.S. District Court District of New Mexico (Las Cruces).

- (2). Appointed CJA counsel of the record Mr. Russell Dean Clark filed a Notice of Appeal on Petitioner's behalf on September 11, 2020, after Sr. District Court Judge Robert C. Brack entered his judgment on Seotember 1, 2020.
- (3). On September 14, 2020, the Tenth Circuit Court of Appeals received and docketed Petitioner's Notice of Appeals in Appeals Case No. 20-2130, United States v. Reynoso.
- (4). On October 16, 2020, Judges Bacharach and Matheson sitting Circuit Court Judges issued an ORDER reappointing Mr. Russell Dean Clark to represent Petitioner. The court's Docketing record entry states: "This appointment is effective nunc pro tunc to Mr. Russell Dean Clark's filing the NOTICE OF APPEAL on Mario Reynoso behalf."
- (5). In a letter dated August 19, 2021, CJA counsel of the record wrote Petitioner a letter, attached hereto as Attachment A, informing that the Tenth Circuit Court Affirmed the District Court's judgment, and that CJA counsel's representation "terminates", wherefore counsel no longer represents Petitioner. See Attachment A hereto.
- (6). CJA counsel never advised or informed Petitioner of his right pursuant to the Criminal Justice Act and this Circuit's adopted CJA Plan to file a Writ of Certiorari to the United States Supreme Court to challenge the Tenth Circuit Court's June 29, 2021, Affirmation judgment, nor did CJA counsel advise or

inform Petitioner that an En Banc Rehearing motion could be filed with the Tenth Circuit Court.

- (7). CJA counsel of the record has not filed a Motion to "withdraw" as the Criminal Justice Act instructs and the Tenth Circuit Rules rule 46.3(B), 46.4(A) makes clear. See Attachment B. Wherefore, CJA counsel of the record Mr. Russell Dean Clark is still Petitioner's CJA counsel and Petitioner understands that he cannot proceed as a "pro se" litigant in any court until CJA counsel moves to withdraw and the court issues an ORDER granting him permission to withdraw and Petitioner permission to proceed pro se.
- (8). CJA counsel of the record has simply abandon Petitioner by not communicating with him, and CJA counsel of the record actions and conduct has deprived Petitioner of the right to file all other "timely" petitions and motions with the Tenth Circuit Court of Appeals and the United States Supreme Court to further litigate Petitioner's criminal case.

REQUESTED RELIEF

It is herefore requested for relief that this court appoint or substitute CJA counsel on Petitioner's behalf so that counsel can assist him in filing a Writ of Certiorari Petition in the United States Supreme Court or a En Banc Rehearing motion in the Tenth Circuit Court of Appeals to challenge the June 29, 2021, judgment. Accord Wilkins v. United States, 441 US 468, 60 L ed 2d 365, 99 S. Ct. 1829 (1979).

Respectfully Requested,
MARIO REYNOSO.

CERTIFICATE OF SERVICE

I, Mario Reynoso, certify (state, verify or declare) that I have served one true copy of this motion titled [Appointment of Counsel to Assist Defendant with Filing A Writ of Certiorari Petition] upon the Clerk of the district court district of New Mexico, after being affixed with First-Class pre-paid postage, and it was deposited in the internal mail system here at FCC Forrest City Complex, on this 29th day in August, 2022.

Respectfully Signed,

MARIO REYNOSO.

A handwritten signature in black ink, appearing to read 'M. Reynoso', is written over the printed name 'MARIO REYNOSO'.

Mac 10 Reg no 50 #33435-180
Federal occasional complex
Box 3000
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MEMPHIS
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UNITED STATES DISTRICT COURT
LAS CRUCES, NEW MEXICO
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